



[Billing Code 3290-F7]

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. USTR–2016–0026]

2017 Special 301 Review: Identification of Countries Under Section 182 of the Trade Act of 1974; Request for Public Comment and Notice of Public Hearing

AGENCY: Office of the United States Trade Representative.

ACTION: Request for comments and notice of public hearing.

SUMMARY: Section 182 of the Trade Act of 1974 (Trade Act) requires the United States Trade Representative (Trade Representative) to identify countries that deny adequate and effective protection of intellectual property rights (IPR) or deny fair and equitable market access to U.S. persons who rely on intellectual property protection. The provisions of Section 182 are commonly referred to as the “Special 301” provisions of the Trade Act. The Trade Act requires the Trade Representative to determine which, if any, of these countries to identify as Priority Foreign Countries. The Office of the United States Trade Representative (USTR) requests written comments that identify acts, policies, or practices that may form the basis of a country’s identification as a Priority Foreign Country or placement on the Priority Watch List or Watch List. USTR also requests notices of intent to appear at the public hearing.

DATES: The schedule and deadlines for the 2017 Special 301 review are as follows:

February 9, 2017 at midnight EST: Written comments, notices of intent to testify at the Special 301 Public Hearing, and hearing statements from **the public** are due.

February 23, 2017 at midnight EST: Written comments, notices of intent to testify at the Special 301 Public Hearing, and although not mandatory, any prepared hearing statements from **foreign governments** are due.

February 28, 2017: The Special 301 Subcommittee will hold a public hearing at the Office of the United State Trade Representative, 1724 F Street NW, Rooms 1&2, Washington DC 20508. If necessary, the hearing may continue on the next business day. Please consult the USTR website for confirmation of the date and location and the schedule of witnesses.

March 3, 2017 at midnight EST: Post-hearing written comments from persons who testified at the public hearing are due.

On or about April 30, 2017: USTR will publish the 2017 Special 301 Report within 30 days of the publication of the National Trade Estimate (NTE) Report.

ADDRESSES: You should submit written comments, notice of intent to testify, hearing statements, and post hearing comments, which must be in English, through the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments in section II below. For alternatives to on-line submissions, please contact USTR at Special301@ustr.eop.gov before transmitting a comment and in advance of the relevant deadline.

PROCEDURES/ADDRESSES: All written comments, notices of intent to testify at the public hearing, hearing statements and post-hearing written responses must be in English and submitted electronically via *www.regulations.gov*, Docket Number USTR–2016-0026. Please specify “2017 Special 301 Review” in the “Type Comment” field.

FOR FURTHER INFORMATION CONTACT: Christine Peterson, Director for Innovation and Intellectual Property, Office of the United States Trade Representative, at special301@ustr.eop.gov. You can find information about the Special 301 Review at www.ustr.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Section 182 of the Trade Act, commonly known as the “Special 301” provisions, requires the Trade Representative to identify countries that deny adequate and effective IPR protections or fair and equitable market access to U.S. persons who rely on intellectual property protection. The Trade Act requires the Trade Representative to determine which, if any, of these countries to identify as Priority Foreign Countries. Acts, policies or practices that are the basis of a country’s identification as a Priority Foreign Country can be subject to the procedures set out in sections 301-305 of the Trade Act.

In addition, USTR has created a “Priority Watch List” and “Watch List” to assist the Administration in pursuing the goals of the Special 301 provisions. Placement of a trading partner on the Priority Watch List or Watch List indicates that particular problems

exist in that country with respect to IPR protection, enforcement or market access for persons that rely on intellectual property protection. Trading partners placed on the Priority Watch List are the focus of increased bilateral attention concerning the problem areas.

USTR chairs the Special 301 Subcommittee (Subcommittee) of the Trade Policy Staff Committee. The Subcommittee reviews information from many sources, and consults with and makes recommendations to the Trade Representative on issues arising under Special 301. Written submissions from the public are a key source of information for the Special 301 review process. In 2017, USTR again will conduct a public hearing as part of the review process as well as offer the opportunity, as described below, for hearing participants to provide additional information relevant to the review. At the conclusion of the process, USTR will publish the results of the review in a “Special 301” Report.

USTR requests that interested persons identify through the process outlined in this notice those countries whose acts, policies, or practices deny adequate and effective protection for intellectual property rights or deny fair and equitable market access to U.S. persons who rely on intellectual property protection.

Section 182 also requires the Trade Representative to identify any act, policy or practice of Canada that affects cultural industries, was adopted or expanded after December 17, 1992, and is actionable under Article 2106 of the North American Free Trade Agreement (NAFTA). The public is invited to submit views relevant to this aspect of the review.

Section 182 requires the Trade Representative to identify all such acts, policies, or practices within 30 days of the publication of the NTE Report. In accordance with this statutory requirement, USTR will publish the annual Special 301 Report on or about April 30, 2017.

II. Public Comments

To facilitate the review, written comments should be as detailed as possible and provide all necessary information for identifying and assessing the effect of the acts, policies, and practices. USTR invites written comments that provide specific references to laws, regulations, policy statements, including innovation policies, executive, presidential or other orders, and administrative, court or other determinations that should factor in the review. USTR also requests that, where relevant, submissions mention particular regions, provinces, states, or other subdivisions of a country in which an act, policy, or practice is believed to warrant special attention. Finally, submissions proposing countries for review should include data, loss estimates, and other information regarding the economic impact on the United States, U.S. industry and the U.S. workforce caused by the denial of adequate and effective intellectual property protection. Comments that include quantitative loss claims should be accompanied by the methodology used in calculating such estimated losses.

III. Public Hearing

The Special 301 Subcommittee will hold a public hearing on February 28, 2017, at the Office of the United State Trade Representative, 1724 F Street NW, Rooms 1&2, Washington DC 20508, at which interested persons, including representatives of foreign

governments, may appear to provide oral testimony. If necessary, the hearing may continue on the next business day. The hearing will be open to the public. Because the hearing will take place in Federal facilities, security screening will be required. Attendees will need to show photo identification and be screened for security purposes. Please consult www.ustr.gov to confirm the date and location of the hearing and to obtain copies of the hearing schedule. USTR also will post the transcript and recording of the hearing on the USTR website as soon after the hearing as possible.

Prepared oral testimony before the Special 301 Subcommittee must be delivered in person, in English, and will be limited to five minutes. Subcommittee member agencies may ask questions following the prepared statement. Persons, except representatives of foreign governments, wishing to testify at the hearing must submit a “Notice of Intent to Testify” and “Hearing Statement” by the February 9, 2017, deadline to www.regulations.gov following the procedures set forth in part IV below. The Notice of Intent to Testify must include the name of the witness, name of the organization (if applicable), address, telephone number, fax number, and email address. A Hearing Statement must accompany the Notice of Intent to Testify. There is no requirement regarding the length of the Hearing Statement; however, the content of the testimony must be relevant to the Special 301 Review.

All representatives of foreign governments that wish to testify at the hearing must submit a “Notice of Intent to Testify” by the February 23, 2017, deadline to www.regulations.gov following the procedures set forth in part IV below. The Notice of Intent to Testify must include the name of the witness, name of the organization (if

applicable), address, telephone number, fax number, and email address. Although not mandatory, government witnesses may submit a Hearing Statement when filing the Notice of Intent to Testify.

IV. Submission Instructions

All submissions must be in English and sent electronically via www.regulations.gov, docket number USTR–2016–0026. To submit comments, locate the docket (folder) by entering the number USTR–2016–0026 in the “Enter Keyword or ID” window at the www.regulations.gov home page and click “Search.” The site will provide a search-results page listing all documents associated with this docket. Locate the reference to this notice by selecting “Notice” under “Document Type” on the left side of the search-results page, and click on the link entitled “Comment Now!.” USTR requests that you provide comments in an attached document, and that you name the file according to the following protocol, as appropriate: Commenter Name, or Organization_2017 Special 301_Review_Comment, or Notice of Intent to Testify or Hearing Testimony. Please include the following information in the “Type Comment” field: “2017 Special 301 Review” and whether the submission is a comment, a request to testify at the hearing, or hearing testimony. Please submit documents prepared in (or compatible with) Microsoft Word (.doc) or Adobe Acrobat (.pdf) formats. If the submission was prepared in a compatible format, please indicate the name of the relevant software application in the “Type Comment” field. For further information on using the www.regulations.gov website, please select “How to Use Regulations.gov” on the bottom of any page.

Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the comment itself, rather than submitting them as separate files.

For any comments submitted electronically that contains business confidential information, the file name of the business confidential version should begin with the characters “BC”. Any page containing business confidential information must be clearly marked “BUSINESS CONFIDENTIAL” on the top of that page and the submission should clearly indicate, via brackets, highlighting, or other means, the specific information that is business confidential. A filer requesting business confidential treatment must certify that the information is business confidential and would not customarily be released to the public by the submitter. Additionally, the submitter should type “Business Confidential” in the “Type Comment” field.

Filers of comments containing business confidential information also must submit a public version of their comments. The file name of the public version should begin with the character “P”. The “BC” and “P” should be followed by the name of the person or entity submitting the comments. Filers submitting comments containing no business confidential information should name their file using the name of the person or entity submitting the comments. The non-business confidential version will be placed in the docket at www.regulations.gov and be available for public inspection.

As noted, USTR strongly urges commenters to submit comments through www.regulations.gov. Any alternative arrangements must be made before transmitting a

comment and in advance of the relevant deadline by contacting USTR at
Special301@ustr.eop.gov.

Comments will be placed in the docket and open to public inspection, except business confidential information. Comments may be viewed on the www.regulations.gov website by entering Docket Number USTR–2016–0026 in the “Search” field on the home page.

Probir Mehta

**Assistant United States Trade Representative for Innovation and Intellectual
Property Office of the United States Trade Representative.**

[FR Doc. 2016-31379 Filed: 12/27/2016 8:45 am; Publication Date: 12/28/2016]